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THE SPORTSMEN'S LAWYER

THE
SPORTSMEN'S
LAWYER



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By E. HOLMBERG

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PREFACE

The preparation of this booklet has been made by careful study, and for the purpose of adding to the sportmen's library a new book on a subject not heretofore written on by any other lawyer or author of sportmen's publications.

The author of this book has undertaken to give to the sportsmen brief and complete information of the law along the lines of which the hunter, sportsmen and outdoorsmen are chiefly interested, and to **guide them in a plain, easy** and understandable way. The use of the hard and technical terms have been avoided as far as possible and practicable for the benefit of its readers.

The ambition of the author is to write a more detailed work on this subject, but this being his first work on any subject of law, and capital rather small, so circumstances would not permit but an ordinary and brief work on the subject at present.

We hope that the readers will find this book interesting and profitable, since the author has made his best endeavors to make it a full and concise work.

BIOGRAPHICAL SKETCH

E. Holmberg was born on a small garden farm in Chicago, Illinois, January 8, 1893, and shortly after moved with his parents to another garden farm in the Town of Norwood Park, just outside the city limits of Chicago, where he lived with his parents for seven years. At the age of eleven years, he again moved with his parents to another garden farm in the Town of Leyden, Cook County, Illinois, and there finished his public school studies.

He organized with the young fellows of his community, and became the most active member of the Leyden Pleasure Club, Monitor Shooting Club and the Co-Operative Pleasure Club.

In the year of 1912 he enrolled in the American Correspondence School of Law, for a three year course of law instruction, and graduated from the same in March, 1915.

In the year 1914 he was commissioned a Notary Public for Cook County, Illinois, which was his first public office.

January 3, 1916, he moved to Hammond, Indiana, and there started a business of collecting accounts, and later the same year went into the real estate and insurance business.

On September 5, 1916, he passed the county bar examination of Lake county, Indiana, and was admitted to practice law in all courts of county jurisdiction and on December 11, 1916, he was admitted to practice in the Supreme Court of the State, and on April 18, 1917, he was admitted to practice in the District Court of the United States.

In 1917 he enrolled in the U. S. Naval Reserve Force and served at sea throughout the German-American War, and was released from active service on June 10, 1919.

GAME LAWS

Game laws have been passed and are in existence and enforcement in every state of the United States and Canada, and are usually styled and called "Acts for the Protection of Game, etc." These laws prescribe rules and regulations for obtaining hunting licenses and the like, and sets the season for hunting, fishing and the like, and makes any violation a misdemeanor, and punishable by fine or imprisonment.

ENFORCEMENT

Game laws are enforced by officers provided for in the general game laws of the several states. These officials are appointed by the executive authorities of the states for that purpose. The superior game protection officials have stated compensation and are always on duty. The lower officials have in some states stated compensation, and in some per diem, in some certain fees or mileage for their services, and in some states a portion of the fines recovered on arrests. These officials are usually called game wardens, special deputy game wardens, etc. The game laws are also enforced by such other officials as States Attorneys, Prosecuting Attorneys, Sheriffs, Supervisors, Justice of the Peace, Constables, and other conservators of the peace of smaller municipalities and political divisions of the state as the law may direct.

Actions under the game laws are commenced by complaint of an officer or an individual before a Justice of the Peace or other court of proper jurisdiction, whereupon a warrant will be issued for the arrest of the person accused, but if the offense was committed in view of an officer, the arrest shall be made without warrant. Search warrants may be issued against any person or place upon affidavit and complaint of any officer or person that he believes and has reason to believe that a certain person has in his or her possession unlawful game, etc. Arrest may not be made by a person not an officer, but warrants may be sworn out by any person, and in such case such person is liable

for costs if the action is wrongful, but where an officer makes an arrest there is no liability for costs.

FISH LAWS

Fish laws are in force in every state in the union regulating the sizes, bag limit, season, etc.

In some states the fish laws are a part of the general game laws of the state, and in some states they are separate, and special officers enforce them, and in such cases the game protection officers have no authority over them except as a private citizen, though such officers as conservators of the peace, etc., have authority over the fish laws as in the game laws. Individuals may obtain warrants against offenders of the fish laws.

TRAPPING LAWS

The laws regulating the trapping of fur bearing animals, is an exception to the general game and fish laws, but it comes so close that every sportsman is more or less interested in its regulation. These laws, however, are not ordinarily published and distributed in pamphlets as are the game laws, but are found on the statute books of the various states. They are enforced as ordinary laws, but their enforcement is not as strongly attempted as that of the general game laws.

Animals embraced in the general game laws and not specifically mentioned in the trapping laws are subject to the provisions of the general game laws, regarding season, bag limit, enforcement, etc.

EXEMPTIONS

One is exempt from punishment under the game laws if done in self defense, as in any other branch of the law. Farmers may kill protected game when causing damage to his crop or other property, and this right exists even if not mentioned in the game laws. This is a general principle of law, and is an inalienable right existing under the bill of rights in the constitution of the United States, and the constitutions of the various states.

FEDERAL LAW

Game laws are passed by the legislatures of the various states, and have not been subject to federal authorities, though as an exception to this course, congress did pass an act known as "The Migratory Bird Law."

MIGRATORY BIRD TREATY ACT

The migratory bird treaty act is a treaty between the United States and the Kingdom of Great Britain and Ireland. This act was approved and became effective July 3, 1918, for the protection of the migratory birds between the United States and Canada.

Article 1 of this treaty provides for the protection of certain migratory birds as follows:

Migratory game birds—

Waterfowl, brant, wild ducks, geese, swan, cranes, sandhill, rails, coots, gallinules, limicola, avocets, culew, dowitchers, godwits, knots, plovers, sandpipers, snipe, woodcocks and yellowlegs.

Migratory insectivorous birds—

Bobolinks, catbirds, chickadees, cuckoos, flickers, flycatchers, grosbeaks, humming birds, kinglets, martins, meadow larks, night-hawks, orioles, robins, swallows, swifts, tanagers, titmice, thrushes, vireos, warblers, wax-wings, whippoorwills, woodpeckers, wrens, etc.

Migratory non-game birds—

Auks, auklets, bitterns, fullmars, gannets, grebes, guillenots, gulls, herons, jaegers, loans, mures, petrels, puffins, shearwaters and terns.

The closed season on migratory birds shall be from March 10 to September 1, except that closed season on limicolae or shore-birds in the Maritime Province of Canada and in those states of the United States bordering on the Atlantic Ocean which are situated wholly, or in part, north of the Chesapeake Bay, shall be between February 1 and August 15.

The closed season on migratory insectivorous birds shall continue throughout the year.

The closed season on migratory non-game birds shall continue throughout the year, except that Eskimos and Indians may take at any time auks, auklets, guillemots, mures and puffins and their eggs, for food and skins for their clothing, but the birds and eggs so taken shall not be offered for sale.

Section 5 of this Act provides, that any employee of the Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of this act shall have the power, without warrant, to arrest any person committing a violation of this act in his presence or view and to take such person immediately before an officer or court of competent jurisdiction. The several judges of the courts, established under the laws of the United States, and United States commissioner may, within their respective districts, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, or nests, or eggs thereof, captured, killed, taken, shipped, transported, carried, or possessed contrary to the provision of this act or of any regulation made pursuant thereto shall, when found, be seized by any such employee, or by any marshal or deputy marshal, and upon conviction of the offender, or upon the judgement of a court of the United States that the same were captured, killed, taken, shipped, transported, carted or possessed contrary to the provisions of this act, or of any regulation made pursuant thereto, shall be forfeited to the United States and disposed of as directed by the court having jurisdiction.

Section 6 of this act provides, that any person, association, partnership or corporation, who shall violate any of the provisions of this act, who shall violate or fail to comply with any regulation made pursuant thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500 or be imprisoned not more than six months, or both.

Complete copies of this act, containing 11 pages, may be obtained free of charge by application to the Department of Agriculture, Washington, D. C. Also other Federal Acts, as made from time to time, may be obtained by application to the Department of Agriculture, Washington, D. C.

PARTNERSHIPS

Introduction: Partnerships are of very old origin, and is a compound of the Roman Civil law, law merchant and the common law. Partnerships in Ancient Roman times usually shared profits according to contribution, but in modern times the custom is (and in most states by law) that they share equally unless the articles of co-partnership provides that they share according to contribution. Partnerships are created by contract of two or more persons competent to contract, also the contract must be acted upon in order to constitute a partnership. Partnerships are of various sorts as, ordinary partnerships, limited partnerships and limited partnership associations.

An ordinary partnership is the original form created merely by contract, and each member is severally liable for the full amount of firm liabilities.

A limited partnership is also created by contract, but may be classed as a quasi-corporation and resembles a corporation in this respect that a limited partnership must be registered with the Secretary of State and recorded in each county in which the partnership does business. There are two sorts of partners in a limited partnership, viz.: general and special partners. There must be one or more general partners in a limited partnership who are liable for the full amount of firm liabilities. The general partners also has the management of the business. Special partners do not take an active part in the management of the business, and are only liable for firm liabilities to the amount of their investment, and share profits according to provisions of the articles.

Limited partnership associations are in existence in Ohio under statute, but resembles a corporation more than a partnership, as they are formed of not less than three nor more than 25 members, and hold meetings and elect officers as a corporation, but they resemble a partnership in this that they are liable for firm debts and share profits as a limited partnership.

ARTICLES OF CO-PARTNERSHIP

Short form for ordinary partnership

Articles of co-partnership made at the *City of Hammond, Lake County, Indiana, this 8th day of July, 1919, A. D.*, by and between *John Doe and Richard Doe, both of the city aforesaid.*

Witnesseth, that the said parties, above named, have agreed to become co-partners in business, and by these, do become co-partners together, under the firm name and style of *Forest Trapping Company* in the business of *the trapping of fur bearing animals in the County of Lake and the State of Indiana*, such co-partnership to commence *on the first day of September, A. D., 1919, and continue for a period of five years and until such partnership shall be dissolved by mutual agreement of the parties hereto.*

Each of the parties shall contribute the sum of \$50.00, and such other sums as may from time to time be added by mutual agreement, to be used in common between them, for the support and management of the said business.

And it is agreed that at all times during the continuance of this co-partnership, they and each of them, will give their attendance, and use their best endeavors for their joint interest, profit and advantage. And also that all profit and losses that shall arise from said business, shall be shared in proportion to their interests between them.

And it is further agreed by the partners hereto that accurate books of accounts shall be kept, and that on or about the first day of each year, inventories shall be taken, showing property, assets and liabilities of the firm, and a copy of such inventories shall be furnished each partner. Five days' time shall be allowed for examination, and in case of objection by either partner, such objection shall be submitted to arbitration.

In Witness Whereof, we have hereunto set our hands and seals the day and year above written.

Signed and sealed in presence of

..... (Seal)

..... (Seal)

COMMERCIAL CORPORATIONS

Commercial corporations may be established for any lawful purpose by articles of incorporations, filed with the Secretary of State (together with the fee of corporation), stating name, object, amount of capital stock, and who shall be officers and directors for the first year, and when the articles of incorporations are filed and charter obtained, the charter, articles of incorporation, and by-laws must be recorded in each county where the corporation is to do business.

The by-laws are made by the corporation itself, and must conform with the charter and articles of incorporation, but may be amended at any time by the corporation itself. The articles of incorporation can only be amended by amendment to the charter on application to the Secretary of State.

BY-LAWS OF A CORPORATION

Article 1. The name of this corporation shall be.....
.....and its place of business shall
be in.....

Article 2. The object for which this company is formed is
to own and operate a business.....

Article 3. The capital stock of this company shall be.....
.....divided into.....shares of
.....each, to be fully paid and non-assessable.

Article 4. The terms of existence of this company shall be
fifty years.

Article 5. The officers of this company shall consist of a President, Vice-President, Secretary, Treasurer, and a Board of Directors of Members, who shall be elected and hold office for one year, and until their successors are elected and qualified.

Article 6. The board of directors shall have and be vested with the powers to make proper regulations for the corporate business, to provide for the holding of periodical and special meet-

ings and to employ agents and such employees as they may deem proper for the management of the business.

Article 7. A majority of the board of directors shall constitute a quorum to do business.

Article 8. The officers of this company shall have no compensation, except as provided by the Board of Directors, and ratified by a majority vote of the stock present at the annual meeting, or any special meeting of the stockholders for that purpose.

Article 9. The annual meeting shall be held on the.....
.....of each year, at such time and as the Board of Directors may direct, for the purpose of electing officers for the ensuing year, and to pass on such other business as may properly come before the meeting.

Article 10. Special meetings of the stockholders may be called at any time by resolution of the Board of Directors and notification, according to law, provided that the purpose of the meeting shall be fully stated in such notice, and nothing else shall come before the meeting.

Article 11. At the stockholders meetings, each stockholder shall have one vote for each share of stock held in the company.

Article 12. Meetings of the Board of Directors shall be called by the President or one or more of the Directors, by giving notice to the full Board as to time, place and purpose of the meeting.

Article 13. The seal of this company shall be circular disc upon which shall appear the words

“.....Name of Company.....”
arranged in a circle, with the words “Corporate Seal” in the center, and arranged so as to make an impression on paper.

Article 14. These articles may be amended at the annual meeting or any special meeting of the stockholders for that purpose, by a majority vote of all stock represented or present at such meeting.

SPORTSMEN'S SOCIETIES

Clubs and societies for hunting and other outdoor sports may be organized and be incorporated as other corporations, by articles of incorporation filed with the Secretary of State. They necessarily do not need to be incorporated, but the act of incorporation prevents other organizations to afterwards use the same name within the state. However, if they are not incorporated, the members are liable for liabilities as in an ordinary partnership.

BY-LAWS

Preamble

For our mutual improvement and benefit in the line of hunting and outdoor sports, and the cultivation of fellowship and good feeling among us, we, the undersigned, do form ourselves an association as hereinafter set forth.

Article 1. The name of the association shall be.....
.....and its purpose shall be to promote fellowship among the members, establish outing resorts for members, obtain permission from landowners for the hunting and other conveniences of the members and to assist the state in bringing to justice all offenders of the game and fish laws of the state.

This association shall operate in the County of Lake and the State of Indiana.

Article 2. The officers of this association shall consist of a President, Vice-President, Secretary, Treasurer and an Executive Committee of three members.

Article 3. —

Section 1. It shall be the duty of the President to preside at all meetings, enforce a due observance of the by-laws, decide all questions of order, call all special meetings, appoint committees not otherwise provided for, sign all treasury orders and fill all vacancies that may arise.

Section 2. The Vice-President shall, in the absence of the President, perform the duties of the President.

Section 3. It shall be the duty of the Secretary to keep in a

book for that purpose, complete minutes of all proceedings, also a record with the names and residences and dates of admission of members.

He shall, at the opening of each meeting, read the minutes of the last meeting, call the roll and note absences and carry on all correspondence.

Section 4. It shall be the duty of the Treasurer to receive all money belonging to the association and keep books provided for that purpose, accounts of all financial transactions, and at the expiration of his term of office, to hand over full accounts of receipts and expenditures to his successor.

Section 5. It shall be the duty of the Executive Committee to call special meetings, prepare programs and make inspection of the books when deemed proper, all subject to the revision of the society on motion.

Section 6. All officers shall perform the duties herein assigned to them, and such other duties as may hereafter be delegated to them.

Article 4. —

Section 1. All officers provided for in the by-laws shall be elected at the annual meeting and shall hold office for one year and until their successors are elected and qualified.

Section 2. Officers elected at the annual meeting shall be installed in office at the next meeting of the association.

Section 3. All elections shall be made by ballot.

Section 4. Harding's rules of order shall be the authority for the conduct of the meetings.

Section 5. Any of the provisions of these by-laws may be amended by two-thirds vote of the members.

Article 5. —

Section 1. All members shall, before being admitted, be residents of Lake County, Indiana, licensed hunter of at least one state.

Section 2. The initiation fee shall be \$25.00, payable at the time of initiation, and the annual premium shall be \$10.00, payable at the beginning of each year.

Section 3. Two negative votes shall debar a candidate from becoming a members.

GAME LAWS OF THE SEVERAL STATES

Since the entire volume of the game laws of each of the various states, would make this booklet many hundred pages in size, and consequently many dollars in price, so we have hereinafter inserted a directory of the officials to whom you may make application for a free copy of the game laws of your or any other state by enclosing return postage.

STATE	OFFICE	ADDRESS
Federal	Dept. of Agriculture.....	Wash'tn, D. C.
Alaska	Dept. of Agriculture.....	Wash'tn, D. C.
Alabama	State Game and Fish Commissioner	Montgomery
Arizona	Fish and Game Commissioner.....	Phoenix
Arkansas	State Game Warden.....	Little Rock
California	Board of Fish & Game Commis'nr	San Francisco
Colorado	State Game and fish Warden.....	Denver
Connecticut	Secretary of State.....	Hartford
Delaware	Del. Protective Ass'n.....	Willmington
Florida	Secretary of State.....	Tallahassee
Georgia	Secretary of State.....	Atlanta
Idaho	Secretary of State.....	Boise
Illinois	State Game Conservation Com'nr	Springfield
Indiana	Secretary of State.....	Indianapolis
Iowa	State Fish and Game Warden.....	Cedar Rapids
Kansas	State Fish and Game Warden.....	Pratt
Kentucky	Secretary of State	Frankfort
Louisiana	Secretary of State	Baton Rouge
Maine	Secretary of State	Augusta
Massachusetts	Secretary of State	Boston
Maryland	Secretary of State	Annapolis
Michigan	Com'nrs of Fisheries and Game....	Lansing
Minnesota	Secretary of State	Saint Paul
Mississippi	Secretary of State	Jackson
Missouri	Game Commissioenrs	Jefferson City
Montana	State Game and Fish Warden.....	Helena
Nevada	Nevada Fish Commission.....	Carson City
Nebraska	State Game and Fish Commissioner	Lincoln

STATE	OFFICE	STATE
New Hampshire	Fish and Game Commissioner.....	Concord
New Jersey	State Fish & Game Commissioner..	Trenton
New York	Chief Game Protector.....	Albany
N. Dakota	State Fish Commissioner	Saint John
New Mexico	Secretary of State.....	Santa Fe
Ohio	Chief Warden	Columbus
Oklahoma	State Fish and Game Warden.....	Chieckaska
Oregon	State Game Warden	Forest Grove
Pennsylvania	Board of Commissioners	Harrisburg
Rhode Island	Commissioner of Birds	Providence
S. Carolina	Secretary of State	Columbia
N. Carolina	Secretary of State	Raleigh
Tennessee	Dept. of Game, Fish and Forestry	Nashville
S. Dakota	State Game Warden	Watertown
Texas	Game, Fish & Oyster Commission..	Austin
Utah	State Fish & Game Commissioner..	Salt Lake City
Vermont	State Fish & Game Commissioner..	Stowe
Virginia	State Fish & Game Commissioner..	Richmond
Washington	State Fish and Game Warden.....	Bellingham
West Virginia	State, Forest, Game and Fish Warden	Bellington
Wisconsin	State Fish and Game Warden.....	Madison
Wyoming	State Game Warden.....	Landon

DOMINION OF CANADA

Following you will find a directory of officials to whom you may make application for a free copy of the game and fish laws of the Canadian provinces.

PROVINCE	OFFICE	ADDRESS
Alberta	Chief Game Guardian.....	Edmonton
British Columbia	Provincial Game Warden	Vancouver
Manitoba	Chief Game Warden.....	Winnipeg
New Brunswick	Deputy Surveyor General	Frederickton
Nova Scotia	Chief Game Warden.....	Halifax
Ontario	Supt. of Game and Fisheries.....	Toronto
Prince Edwards Island	Game Inspector	Charlottetown
Quebec	Minister of Colonization.....	Quebec
Saskatchewan	Chief Game Warden.....	Regina

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